

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Wednesday, October 23, 2019
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Mike Lefor, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Mike Lefor, Jason Dockter, LaurieBeth Hager, Craig Johnson, Vernon Laning, Matthew Ruby, Austen Schauer; Senators Dick Dever, Karen K. Krebsbach, Richard Marcellais, Kristin Roers

Members absent: Senators Howard C. Anderson, Jr. and Brad Bekkedahl

Others present: See [Appendix A](#)

Chairman Lefor reviewed the duties of the Employee Benefits Programs Committee.

Chairman Lefor called on the Legislative Council staff to review the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#) and a memorandum entitled [Employee Benefits Programs Committee - Statutory Responsibilities and Assigned Statutory Responsibilities - Background Memorandum](#).

It was moved by Senator Roers, seconded by Representative Laning, and carried on a roll call vote that the committee accept for review legislative proposals that affect retirement programs from legislators, Legislative Management interim committees, and state agencies with bill introduction privileges and such proposals must be submitted to the committee in bill draft form before April 1, 2020, except for Legislative Management interim committee recommendations, which must be submitted before the November 2020 Legislative Management meeting at which interim committee reports are made. Representatives Lefor, Dockter, Hager, Johnson, Laning, Ruby, and Schauer and Senators Dever, Krebsbach, Marcellais, and Roers voted "aye." No negative votes were cast.

HUMAN RESOURCE MANAGEMENT SERVICES - REPORTS

Chairman Lefor called on Ms. Lisa Kudelka, Chief People Officer, Human Resource Management Services, Office of Management and Budget, for presentation ([Appendix B](#)) of a report, as required under North Dakota Century Code Section 54-06-31, on the implementation, progress, and bonuses provided by state agency programs to provide bonuses to recruit or retain employees in hard-to-fill positions; and biennial reports, as required under Sections 54-06-32, 54-06-33, and 54-06-34, summarizing reports of state agencies providing service awards to employees in classified service, providing employer-paid costs of training or educational courses to employees in classified service, and paying employee membership dues for professional organizations and membership dues for service clubs when required to do business or if the membership is primarily for the benefit of the state.

In response to a question from Senator Roers, Ms. Kudelka said she will provide the committee additional data regarding retention beyond the period required for the bonus.

In response to a question from Representative Laning, Ms. Kudelka said the recruitment and retention bonus data does not include any money provided for relocation expenses. She said the frequency of providing relocation expenses depends on the position being filled and the individual negotiations.

In response to a question from Chairman Lefor, Ms. Kudelka said each agency develops its recruitment and retention bonus policy; however, each agency is required to submit its policy to the Office of Management and Budget.

In response to a question from Representative Schauer, Ms. Kudelka said an agency's ability to award a bonus is limited by the agency's appropriation. She said as it relates to filling information technology positions, colleges are graduating more students in this field, which helps with the supply and demand equation.

OVERVIEW OF THE PUBLIC EMPLOYEES RETIREMENT SYSTEM

Chairman Lefor called on Mr. Scott Miller, Executive Director, Public Employees Retirement System, for an overview ([Appendix C](#)) of the Public Employees Retirement System (PERS).

In response to a question from Representative Laning, Mr. Miller said he expects recruitment and retention is one reason political subdivisions join the PERS retirement programs.

In response to a question from Senator Roers, Mr. Miller said if an employee who participates in the portability enhancement provision works until retirement, that employee benefits from contributions in the deferred compensation program.

In response to a question from Senator Roers, Ms. Rebecca Fricke, Chief Benefits Officer, Public Employees Retirement System, said the request for proposal (RFP) for the uniform group hospital and medical benefits will be issued in July 2020, due in August 2020, and selected in September or October 2020.

In response to a question from Senator Marcellais, Ms. Fricke said most wellness programs are available to rural communities. She said employer participation is onsite and there are programs accessible regardless of location, such as the online prediabetes program and the \$250 wellness incentive. She said wellness programs are marketed in a variety of ways, including direct mailings.

In response to a question from Senator Dever, Mr. Miller said all the PERS programs, except the retirement benefits, are available to legislators.

In response to a question from Representative Schauer, Mr. Miller said, regarding slide number 16, the PERS Board likely will submit a legislative proposal to increase the contribution to help make up the 5 percent shortfall in contribution.

In response to a question from Representative Schauer, Mr. Miller said PERS has examined the concept of charging a surcharge based on behavior, such as tobacco usage, but federal restrictions have prevented the board from implementing a surcharge or different premium levels. He said PERS is considering making some of the wellness programs, such as the diabetes program, an opt-out program.

Chairman Lefor welcomed students from the Leadership Dickinson program.

Ms. Adelyn Emter, Senior, Dickinson Trinity High School, said the students meet monthly and focus on connecting with the community. She said the group will be selecting and implementing a service project as part of its activities.

ACTUARIAL VALUATION OF THE PUBLIC EMPLOYEES RETIREMENT SYSTEM FUNDS

Chairman Lefor called on Ms. Bonita J. Wurst, Senior Consultant, Gabriel, Roeder, Smith & Company Holdings, Inc., to present ([Appendix D](#)) an overview of the PERS valuation process and the July 1, 2019, actuarial valuations of the PERS fund, the Highway Patrolmen's retirement system fund, Job Service North Dakota retirement system fund, and Retiree Health Insurance Credit Program fund.

In response to a question from Chairman Lefor, Ms. Wurst said the requirement that PERS conduct an experience study once every 5 years is appropriate. She said most states comply with the goal of conducting an experience study once every 3 to 5 years. She said changes resulting from experience studies can be a combination of major and minor changes. She said as new tools are introduced, experience studies allow the state to recognize the new tools. She said in addition to the experience study, as part of the annual actuarial review, assumptions are reviewed. She said the experience study will begin this fall, and she expects results shortly after the new year.

In response to a question from Senator Roers, Ms. Wurst said she does not see a downside to amending the law to allow PERS the flexibility to conduct an experience study at least once every 5 years.

In response to a question from Senator Dever, Ms. Wurst said the target funding cycle is a 20-year target period. She said a cash infusion would make a difference in the total actuarial rate calculation and would be an excellent solution or part of a solution to address the main fund's underfunding.

Senator Dever said there has been a reluctance of the Legislative Assembly to fund the defined benefit retirement plan. He said some legislators have voiced a concern that funding the plan would be throwing good money after bad.

Ms. Wurst said defined benefit plans face pressure to convert to defined contribution plans. She said some plans that have converted to defined contribution later have converted back to defined benefit. She said it is important to remember following a conversion to a defined contribution plan does not negate the financial obligations of the closed defined benefit plan. She said she will provide the committee with a recent report that indicate anticipated savings are not recognized by moving to a defined contribution plan.

In response to a question from Representative Schauer, Ms. Wurst said the changed assumed annual rate of return is based on capital market assumptions and forward looking projections based on asset allocations and projections. She said nationally the trend has been expected returns have been decreasing and the PERS rate of 7.5 percent is relatively high. She said if the market experiences a significant shock, like it did in 2008, the main system likely would not handle the shock and would be faced with decreasing benefits or increasing contributions.

Mr. Miller said the market experienced two shocks - the pre 2001 tech bubble burst and the 2008 global financial crisis. He said the result of the combination of these two shocks was that the main fund dropped from 100 percent funding to 62 percent funding. He said the current asset allocation does not protect the fund entirely from a global financial crisis. He said this experience has taught funds to be very careful before making benefit improvements.

In response to a question from Representative Johnson, Ms. Wurst said a defined contribution plan is similar to a 401k and the concept of unfunded liability does not exist. She said in a defined contribution plan the participant holds all the investment risk and it does not cover longevity, as it is possible the funds will be exhausted before the participant dies.

OVERVIEW OF THE RETIREMENT AND INVESTMENT OFFICE

Chairman Lefor called on Mr. David J. Hunter, Executive Director and Chief Investment Officer, Retirement and Investment Office, for an overview ([Appendix E](#)) of the Retirement and Investment Office, including State Investment Board (SIB) investments for the Teachers' Fund for Retirement (TFFR) and PERS.

In response to a question from Chairman Lefor, Mr. Hunter said less than 10 percent of SIB investment firms have strict performance fees. He said technically SIB does not issue RFPs for investment firms, but instead performs quarterly reviews of performance and also contracts with a consultant to review performance of the investment firms.

In response to a question from Representative Schauer, Mr. Hunter said timber investments have been underperforming. He said he has been meeting with the timber manager every 6 to 12 months to review performance. He said because of concerns with performance, 3 years ago the state got money back from the timber manager.

In response to a question from Representative Schauer, Mr. Hunter said SIB strives to improve, including continuing to seek to decrease fee levels and optimize portfolio asset allocation. He said in optimizing asset allocation SIB is striving to optimize its overall equity portfolio, with the likely outcome of pruning the portfolio and removing some of the managers that are most challenged and pushing those assets to some of the managers that have been doing well. He said the fixed income allocation has been becoming stronger, which has worked well.

Mr. Hunter said LSV Asset Management, which is one of the largest asset managers, is a deep value manager that has been underperforming. He said SIB has been doing due diligence and holding face-to-face consultations with LSV Asset Management. He said SIB has determined although a value tilt has been out of favor over the last 12 to 18 months, SIB is in this for the long term. He said at times certain styles and tilts fall out of favor for the short term. He said SIB, in consultation with its consultant, has decided to be consistent with its approach.

In response to a question from Chairman Lefor, Mr. Hunter said local investors do a good job, but the level of complexity of the institutional market is such that the economies of scale make the institutional investors more appropriate. He said there is no prohibition from SIB selecting a local investor. He said SIB will consider a local investor if it has a large enough asset pool to spread the high regulatory costs, reporting and compliance risks over that asset base. He said SIB investors need to compete on a global institutional basis.

Chairman Lefor called on Ms. Fay Kopp, Chief Retirement Officer, Teachers' Fund for Retirement, for an overview ([Appendix F](#)) of TFFR.

In response to a question from Representative Laning, Ms. Kopp said if an employer opts to pick up the employee's portion of the contribution, that portion is not subject to Federal Insurance Contributions Act (FICA) taxes.

ACTUARIAL VALUATIONS OF THE TEACHERS' FUND FOR RETIREMENT

Chairman Lefor called on Ms. Kim Nicholl, Senior Vice President, and Mr. Matthew A. Strom, Vice President, The Segal Group, Inc., of an overview ([Appendix G](#)) of the TFFR valuation process and the July 1, 2019, actuarial valuation of TFFR.

In response to a question from Representative Hager, Ms. Nicholl said the chart on slide 14 is based on the assumption the number of active members is level in the future. She said the projected point in 2041 when the number of retirees exceeds the number of active members is not the end of the world. She said the leveling of the trend of the number of retirees is due in part to the end of baby boomer retirements.

Mr. Strom said the leveling is also due to the implementation of Tier 1 nongrandfathered and Tier 2 retirement age requirements.

In response to a question from Representative Schauer, Mr. Strom said he is not uncomfortable with the 7.75 percent expected annual rate of return; however, this rate is at the top of the range.

In response to a question from Representative Dockter, Ms. Kopp said she expects when the TFFR fund nears 100 percent funding, TFFR will introduce legislation to provide a plan for a phase-in approach to reducing contributions.

Mr. Miller said PERS and TFFR 5- and 10-year returns were in the top quartile.

Mr. Hunter said long-term investors look at the long term.

PHARMACY BENEFITS STUDY

Chairman Lefor called on the Legislative Council staff to present a memorandum entitled [Uniform Group Insurance Prescription Drug Benefits - Employee Benefits Programs Committee - Background Memorandum](#).

In response to a question from Representative Schauer, Mr. Miller said when PERS considered unbundling pharmacy benefits in 2014, PERS learned stop-loss insurance is not available for unbundled self-insurance pharmacy benefits, thus was unable to comply with the state's self-insurance law. He said this law was changed in 2019 to make it possible to pursue an RFP for unbundled self-insurance pharmacy benefits.

Chairman Lefor said Wednesday, January 15, 2020, is the tentative date for the next meeting of the Employee Benefits Programs Committee at which the committee will focus on the pharmacy benefits study.

No further business appearing, Chairman Lefor adjourned the meeting at 3:00 p.m.

Jennifer S. N. Clark
Counsel

ATTACH:7